



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SUPERVISORY BARGAINING UNIT,
LOCAL 856, IAFF

and

LOCAL 856, IAFF

CASE NO. F-0112:1

DECISION NO. 84-21

DECERTIFICATION PETITION

APPEARANCES

Representing the Supervisory Bargaining Unit, Local 856, IAFF

Pete De Nutte, District Chief
Aime Couture

Representing Local 856, IAFF

Vincent Wenners, Jr., Esq., Counsel
Ronald Philibert, President

Also Present

Wilbur Jenkins
John Lydon
William Durand

Ronald Charland
Roger Gentes
Ed Fradette

Jim Clancy
Douglas M. Aiken
W. J. Milne

BACKGROUND

On November 14, 1983 (filing date at hearing amended to January 12, 1984) the requisite number of members of "the Supervisory Bargaining Unit", Local 856, IAFF, Manchester Professional Firefighters Association filed a petition with PELRB requesting an election be held within the bargaining unit of nine (9) District Chiefs and one (1) Communications Supervisor for the purpose of decertifying the present representative union.

A hearing on the petition was held at the PELRB office on January 12, 1984 with all parties represented.

FINDINGS OF FACT AND RULINGS OF LAW

At hearing, Counsel for Local 856, IAFF argued that the petition for a decertification election could only be filed during the window period, no more than 210 days nor less than 150 days prior to budget submission date (in this case, October 4, 1983) in the year the contract expires and the election held thereafter, but not less than 120 days prior to budget submission date, in accordance with PELRB rules (301.04 and 301.02) and RSA 273-A:II, I (b). Further, Counsel for Local 856 argued that the petition should be dismissed because, under the language of the contract, it was extended unless one party actually notified the other of its termination, therefore, the contract was still in force barring any decertification or "challenge" until the appropriate dates in 1984.

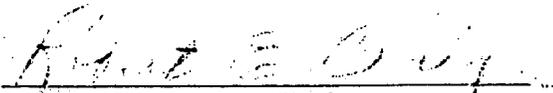
PELRB FINDS THAT:

- (1) The language of the contract (Article XXXIII) clearly states that the agreement "shall be in full force and effect and remain in full force and effect from January 1, 1983 to and including December 31, 1983".
- (2) The Manchester Professional Firefighters Association, Local 856 did notify, by mail, the City of Manchester of its desire to meet and negotiate changes in all articles (sic) contained in the present collective bargaining agreement due to expire on December 31, 1983. Testimony was received that negotiations had in fact begun during 1983 but were broken off in October when the decertification petition was filed.
- (3) The language in the contract requiring a "cancellation" of the contract did not alter the expiration date of the contract, even if some or all of the provisions of the contract were to be continued, since the notice that "all" articles were up for negotiation, coupled with the contract's own expiration date can only mean that the contract, as written, was to be completely re-negotiated, therefore, it cannot be deemed in force beyond its clear expiration date.

DECISION AND ORDER

The PELRB finds that the "contract bar" to decertification, or other challenges, except during a "window" period prescribed by law and the Board's Rules, does not apply in this case since the contract expired as of December 31, 1983.

PELRB hereby orders a decertification election to be held as soon as possible between the members of the Manchester Professional Firefighters Association and Local 856, IAFF.


Robert E. Craig, Chairman

Signed this 8th day of March 1984.

Voting in favor: Robert E. Craig and Robert D. Steele. Member James C. Anderson dissenting. Also present, Evelyn C. LeBrun, Executive Director.